

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9539 OF 2023

Manasi Vasant Lavhare

...Petitioner

Versus

State of Maharashtra Through Its Secretary
Tribal Development & Anr

...Respondents

Mr RK Mendakdar, for the Petitioner.

Mr VM Mali, AGP, for the Respondent-State.

CORAM G.S. Patel &
Neela Gokhale, JJ.
DATED: 2nd August 2023

PC:-

1. Rule. Returnable forthwith.

2. The Petitioner, Manasi, claims to belong to the “Koli Mahadev” scheduled tribe. She is aggrieved by an order passed on 4th May 2023 by the 2nd Respondent, the Scheduled Tribe Certificate Scrutiny Committee, Nashik Division, invalidating her scheduled tribe certificate.

3. We have considered the impugned order. In our view it cannot be sustained for one simple reason. Before the Committee, Manasi produced or relied on as many as eight validity certificates of

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her relatives including her cousins, her male second cousins, another male first cousin and her father. These certificates were issued by this very Committee between the period 1995 and 2022. All of them uphold the validity of these persons as belonging to the “Mahadev Koli” scheduled tribe. Yet, without any notice to these persons and on the basis of what are apparently claims of contra entries in school certificates and other registers, the Committee has purported to invalidate even long settled validity certificates issued by this very Committee on the ground that there is a suppression of facts.

4. We do not see how the Committee has the power to reopen old, previously decided cases, without completing the necessary process of hearing these affected persons. We do not see how old and long settled matters can be constantly reopened in this fashion. The necessary implication in this is that the entry in school register or a birth or death record will prevail over a validity certificate issued 40 years ago by the very same Committee. On the face of it that is an unacceptable proposition. It is not for every later committee to reopen decisions previously concluded suo motu or on its own in this fashion. There has to be some certainty to judicial or quasi-judicial decision-making processes. There has to be some finality to this. The Committee seems entirely unmindful of the consequences of its own actions. If a certificate of 40 years’ vintage is now to be reopened, one does not know what is to happen to matters of employment, education and so on of any of these eight affected persons.

5. In none of this is there a finding why the validity certificates should be discarded other than saying that there is an alleged suppression of facts and misrepresentation. Indeed, it seems to us self-evident that it is enough for a party to rely on a validity certificate, and it is no requirement in law for an applicant to have to once again establish the correctness of claims made by relatives in respect of validity certificates previously granted. That can never be the mandate of the law. The suggestion to that effect is entirely untenable. In view of this the contention that these relatives of the Petitioner belong to a special backward category is only to be stated to be rejected.

6. The Petition succeeds. Rule is made absolute in terms of prayer clauses (a) and (b) which read thus:

“(a) That this Hon’ble Court be pleased to issue Writ of Certiorari and/or any other Writ, Order or Direction in the nature of Certiorari thereby quashing and setting aside the impugned Judgment and Order dated 4.5.2003 passed by the Respondent No. 2 committee, **Exhibit “A”** to this writ petition, with further directions to it to forthwith grant caste validity certificate in favour of the petitioner in the light of caste validity certificates granted to the father, three real uncles and four cousin brothers of the petitioner from paternal side, in accordance with law.

(b) That this Hon’ble Court be pleased to hold and declare that the petitioner is Koli Mahadev, Scheduled Tribe community, listed at entry no. 29 of the Second Schedule, Part IX of the Amending Act no. 108 of 1976 and that the caste certificate dated 16.9.2019 issued to the petitioner by competent authority of jurisdiction is valid, legal and subsisting.”

7. The Committee will issue the necessary certificate to the Petitioner by Monday, 7th August 2023. All concerned will act on authenticated copy of this order.

8. If the Petitioner has obtained medical admission, she will have time until 11th August 2023 to submit the validity certificate. The college authorities will not cancel her admission at any earlier date only on account of non-submission of the validity certificate. The college will act on production of an authenticated copy of this order.

(Neela Gokhale, J)

(G. S. Patel, J)